IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8925 of 2004

Between:

Vemupathi Thomos Bose S/o Nellambaram
R/o H. No. 24-1-650, walkers Road, Mulapet, Nellore Town, Nellore, District

..... PETITIONER

AND

The Station House Officer, One Town Police Station, Nellore,
Town, Nellore, District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondent in interfering in Civil matters and seeking to evict the petitioner from the House No. 24-1-650 Walkers road, Mulapet, Nellore as illegal, arbitrary and without jurisdiction and consequently direct the respondent not to interfere in Civil Matters and further direct the respondent not to evict the petitioner from the House No. 24-1-650 Walkers Road, Mulapet Nellore

Counsel for the Petitioner:MR.P.GANGA RAMI REDDY

Counsel for the Respondent No.: GP FOR HOME

The Court made the following :

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O R D E R:

This writ petition is filed by the petitioner seeking a declaration that the alleged action of the 1st respondent – Station House Officer, I Town P.S., Nellore in interfering with the civil disputes and seeking to evict him from the house No. 24-1-650 Walkars road, Mulapet, Nellore as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that the petitioner is the owner and possessor of the house in question, and that some of the co-sharers filed a suit in O.S.80 of 1991 on the file of the Court of the Prl. Senior Civil Judge, Nellore, for partition of the suit schedule properties including the house in question, in which the petitioner is residing. The said suit was decreed by virtue of which the house in question, was allotted to the plaintiffs in the said suit. However, the value of the said building was fixed at Rs.1,50,000/- and the petitioner herein, was allowed to continue in possession of the house till the said amount is paid to him by the plaintiffs in the said suit. The case of the petitioner is that the said amount has not been paid so far and therefore, he is entitled to continue in possession of the house in question. It is alleged that at the instance of the plaintiffs in the said suit, 1st respondent has been threatening the petitioner to vacate the house in question.

Hence, this writ petition contending that the plaintiffs in the said suit are not entitled to take possession of the house in question, and the action of the 1st respondent in taking steps to forcibly dispossess him from the house in question, at the instance of the plaintiffs in the said suit is arbitrary and illegal.

Initially, this Court by an order dated 11-05-2004, granted interim stay of dispossession of the petitioner from the house in question. Subsequently, the 2nd respondent who is one of the plaintiffs in O.S.No.80 of 1991 got himself impleaded and filed a detailed counter-affidavit

on the basis of which this Court by order dated 07-07-2004 vacated the interim stay dated 11-05-2004.

Now a separate counter affidavit has been filed by the 1st respondent denying all the allegations made by the petitioner. The allegation of the petitioner that the 1st respondent has been taking steps to evict the petitioner forcibly from the house in question, is specifically denied and it is stated that he never interfered with the civil disputes as alleged by the petitioner. It is further added that 2nd respondent-V.Jaganmohan Rao lodged a complaint on 22-05-2004 stating that the possession of the house in question, was handed over to him in pursuance of the orders in E.P.No.52 of 2004 in O.S.No.80 of 1991 on the file of the Principle Junior Civil Judge, Nellore on 14-04-2004 and the said E.P. was also closed on 29-04-2004, recording the delivery of the possession of the house in question and that when he wanted to raise the Eastern boundary wall of the said house, the petitioner herein, and his younger brother one Mohan Rao and other family members trespassed into the house and threatened him with dire consequences. It is further stated that on the basis of the said complaint, 1st respondent registered a case in crime No.67 of 2004, for the offences punishable under Sections 448 and 506 read with 34 of I.P.C. against the petitioner and six others and the same is under investigation.

On a perusal of the material available on record and from the unrebtted averments in the counter-affidavits filed by the respondents 1 and 2, it is clear that the house in question has already been delivered to the 2nd respondent by virtue of the orders of the Civil Court in E.P.No.52 of 2002 in O.S.No.80 of 1991, and that a crime has been registered against the petitioner and the same is under investigation.

In the circumstances, the allegations in the writ petition are unfounded and the relief as prayed for cannot be granted.

Accordingly, the writ petition is dismissed. No costs.

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03-08-2004

mjl/*

To

1. The Station House Officer, One Town Police Station, Nellore,
Town, Nellore, District.

2. 2 CCs to G.P. for Home, High Court of A.P. Hyderabad.

3. 2 CD copies.